

**-BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
OF THE
BALDWIN ENERGY FACILITY NO. 1
LA JOLLA ENERGY DEVELOPMENT, INC.**

**DOCKET No. 01-EP-11
APPLICATION COMPLETED
MAY 24, 2001**

PROPOSED DECISION

Executive Orders

On January 17, 2001, the Governor proclaimed a State of Emergency due to constraints on electricity supplies in California. As a result, the Governor issued Executive Orders D-22-01, D-24-01, D-25-01, D-26-01, and D-28-01 to expedite the permitting of peaking and renewable power plants that can be on line by September 30, 2001, and provide power to California. Emergency projects are exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080(b)(4). Since the Governor has declared a state of emergency, the Energy Commission may authorize the construction and use of generating facilities under terms and conditions designed to protect the public interest. (Public Resources Code section 25705.)

Recommendation

The proposal to develop the Baldwin Energy Facility No. 1 meets Energy Commission criteria developed to implement the Governor's Executive Orders expediting the permit process for peaking and renewable energy generating plants. The site chosen for the project was identified in the Energy Commission's February 2001, report to the Governor as one of the 32 suitable peaking power plant sites for the emergency permit process.

Energy Commission staff performed a fatal flaw analysis of every technical area of the proposed project except for air quality and determined that all topics of concern could

be fully mitigated. The South Coast Air Quality Management District performed an analysis of the air quality implications of the project, including compliance with air emission requirements, and concluded that a Permit to Construct cannot be issued for the project as configured in Phase I but can be issued for the project as configured in Phase II. Based on information provided by the Applicant, the project as configured in Phase II cannot be operational until after September 30, 2001. Unless an expedited project proposal has the expectation of being operational by September 30, 2001, it cannot be licensed under Public Resources Section 25705 and the Executive Orders. Therefore, as Presiding Commissioner, I cannot recommend approval of the project as currently proposed.

This Proposed Decision, including my recommendation against approval of the project, has been completed in an expedited timeframe as called out in the Executive Orders and is submitted for adoption by the full Commission.

Project Location and Description

On May 15, 2001, La Jolla Energy Development, Inc. ("Applicant") filed an emergency permitting application with the Energy Commission to construct and operate a 53 megawatt (MW) power plant identified as the Baldwin Energy Facility No. 1 project ("the project"). The project site will consist of approximately two acres within the property boundaries of the Inglewood Oilfield at 5640 South Fairfax Avenue in Los Angeles County. The Inglewood Oilfield is operated by Stocker Resources, Inc.

The project site is immediately adjacent to the existing Kenneth Hahn State Recreation Area and in the middle of a canyon surrounded by highly populated residential communities that include Baldwin Hills and neighborhoods in Culver City. In February 2000, the Governor signed Senate Bill (SB) 1625 [Stats. 2000, Chap. 428, p. 94 (Murray)], which expressed an intent to develop recreational venues in the Baldwin Hills and Culver City residential areas near the proposed project site by holding the open space in Baldwin Hills "in trust to be preserved and enhanced for the enjoyment of, and appreciation by, present and future generations." This legislation created the Baldwin Hills Conservancy within the State Resources Agency and charged the Conservancy with developing and coordinating "an integrated program of resources stewardship so that the Baldwin Hills area is managed for its optimum recreational and natural resources values based upon the needs and desires of the surrounding community."

[Pub. Resources Code, sec. 32551(e).] The Conservancy is in the process of purchasing land to develop the area, which includes the project site, into the Baldwin Hills State Park.

Stocker Resources is currently operating the Inglewood Oilfield and anticipates that its operations will continue for another 25 to 30 years. The oilfield and proposed project site in that oilfield are located on privately owned property zoned as an A-2 Heavy Agricultural, which allows power plant uses. Applicant asserts that the life of the project would be 30 years. Energy Commission staff proposed that the project license be limited to 3 years in the absence of a power purchase agreement with the Department of Water Resources (DWR), or for the term of the DWR contract and if the project meets continuation criteria, the license should be concurrent with the life of the oilfield so that power plant operation would cease upon cessation of oilfield operations. (Staff Assessment, p. 1.)

The application submitted by La Jolla Energy Development, Inc., states that Applicant and Stocker Resources, Inc., are pursuing an agreement that would provide for shared ownership of the project. On June 13, 2001, Applicant confirmed that La Jolla Energy Development, Inc., and Stocker Resources, Inc., are entering a joint venture agreement to develop the project. Under the project proposal, the power plant would provide approximately 12 MW to Stocker Resources and sell the remaining MW in the California grid pursuant to an agreement with DWR and on the spot market. Applicant requests that the project be permitted to operate for 8,760 hours per year to allow for maximum flexibility.¹

The application indicates that Terms Sheets are being negotiated with the Department of Water Resources for a 5 or 10 year Power Purchase Agreement.² On June 13, 2001, Applicant advised Commission staff that it was negotiating with Navigant, a consulting firm employed by the Department of Water Resources to negotiate such contracts. However, the contract had not been finalized at the time of this writing.

¹ Project Application, section 1.7.

² Project Application, section 4.1.

To qualify for the Energy Commission's expedited review, the project must begin commercial operation by September 30, 2001. Applicant expects project construction to take approximately three to four months after approval of the application.

The proposed project consists of two GE LM 2500 natural gas-fired combustion turbines nominally rated at 26.5 MW each and associated equipment. The project will initially be configured in simple cycle mode but the final configuration will include the installation of steam injection using two 70-foot tall heat recovery steam generators (HRSGs), selective catalytic reduction system (SCR) to reduce NOx emissions, and an oxidation catalyst to be installed in late 2001 or early 2002. Facilities associated with the project include: approximately 300 feet of overhead transmission lines connecting the project switchyard to the existing Southern California Edison La Cienega/Beverly 69 kilovolt (kV) line that runs along the east side of the project site; and a 6-inch natural gas pipeline connecting the plant to the existing Southern California Gas Company ("SoCalGas") 12-inch psig line within the Inglewood Oilfield.

Public Hearings

On May 31, 2001, Robert Pernell, the Commissioner designated to conduct proceedings on this proposal, held a public site visit and informational hearing in Culver City to discuss the project with governmental agencies, community organizations, and members of the public. At the hearing, the Applicant described the project and Energy Commission staff ("Staff") explained the Energy Commission's expedited review process. Local residents and other members of the public made comments and had the opportunity to ask questions about the project.

Senator Kevin Murray and Congresswoman-elect Diane Watson were present at the hearing. Richard Rios represented Assemblyman Herb Wesson, Daniel Hinerfeld represented City Councilman Mike Feuer, and Theresa Walette represented City Councilman Mark Ridley-Thomas. Assistant City Administrative Officer John Nowak was present for the City of Culver City.³ Also attending were Miriam Ingenito with the California Resources Agency, Steve Treanor with the State Department of Parks and

³ Mr. Nowak did not speak at the informational hearing. On June 6, 2001, he faxed an Agenda Item Report regarding consideration of the project at the Culver City Council meeting scheduled for June 11, 2001 [Exhibit 7]. The report contained a recommendation that the City Council not take action due to lack of information currently available on the topic.

Recreation, and Pang Mueller, Manager of Permitting and Compliance for the South Coast Air Quality Management District. Representatives of the local media were present. Members of the community had comments and questions regarding the project. See **Public Comment** sections below.

In response to requests from the community at the May 31, hearing, Commissioner Pernell agreed to conduct a second public hearing at which governmental agencies, community organizations, and the public could comment on the Staff Assessment of the project, which would be posted on the website prior to the second hearing. The Staff Assessment was posted on the Commission's website on June 13, 2001, and received into the record on June 14, 2001. Copies were delivered overnight to the elected officials and to homeowner association representatives and community organizations.

On June 18, 2001, at the invitation of several neighborhood associations and community organizations, Commissioner Pernell toured the nearby residential communities, the Kenneth Hahn State Recreational Area, and representative public school sites in the project vicinity. On the evening of June 18, 2001, Commissioner Pernell conducted a second public hearing in the new art center auditorium at West Los Angeles College in Culver City to discuss the project and the Staff Assessment with governmental agencies, neighborhood associations, community organizations, and members of the public. Approximately 1,000 people attended the hearing where elected officials, local residents, and other members of the public made comments and had the opportunity to ask questions about the Staff Assessment and the project.

Elected officials including Assemblyman Herb Wesson, Senator Kevin Murray, Supervisor Yvonne Brathwaite Burke, and Los Angeles Unified School District President Genethia Hudley Hayes addressed the Committee to indicate the extent of opposition to the project in the affected communities. Essentially, the residents of the area believe that a power plant is inconsistent with the adjacent Kenneth Hahn recreational area, plans for the Baldwin Hills State Park, and the development of the recreational areas planned by the Conservancy. The communities are also concerned about the potential health effects and visual impacts of the project, particularly due to the density of residential communities and public schools in the surrounding area compared with the industrial zones where power plants are typically located. These concerns are described in more detail below.

Participants at the hearing expressed almost unanimous opposition to the location of the power plant at the oilfield site.⁴ More than 350 "blue" cards indicating opposition to

⁴ Prior to the June 18, 2001, members of the community sent letters, faxes, emails, and made phone calls to the Commissioner's office as well as to other elected officials to express opposition to the project. A partial list of those individuals is attached to this Decision.

the project were collected at the hearing by the Commission's Public Adviser.⁵ Several documents were also received into the record, which illustrate the extent of opposition to the project.

- Petitions opposing the project site were signed by 2,072 residents of Ladera Heights, View Park, View Heights, Baldwin Hills, Baldwin Vista, Baldwin Village, Village Green, Windsor Hills, Crenshaw and Culver City neighborhoods. (Exhibit 10.)
- The written statement of Charles J. Cicchetti, Ph.D. sponsored by County Supervisor Yvonne Brathwaite Burke. (Exhibit 11.)
- Comments on the Staff Assessment submitted by Calvin Hall, President of the Baldwin Hills Village Gardens Homes Association, Inc. (Exhibit 12.)
- Copy of the Los Angeles Times editorial dated June 11, 2001, entitled "The Power of a Park" submitted by Ruth Sarnoff. (Exhibit 13.)
- Report of the United Homeowners Association and Concerned Citizens of South Central Los Angeles, et al submitted by Jeffer, Mangels, Butler & Marmaro LLP, by Alvin S. Pak, counsel, Center for Law in the Public Interest, by Robert Garcia, counsel, and Cochran Cherry Givens Smith & Stewart, by Johnnie Cochran, counsel. (Exhibit 14.)
- Letter dated June 15, 2001, from David Moch, President of the Cloverdale, Stillwater, Terraza, Weatherford Homeowners Association. (Exhibit 15.)
- Package of photographs of the affected community submitted by Ed Royal. (Exhibit 16.)
- Letter dated May 31, 2001, from Supervisor Yvonne Brathwaite Burke to Energy Commission Chairman William Keese. (Exhibit 17.)

⁵ The Commission's Public Adviser typically distributes blue colored cards to the audience for participants to indicate their comments in writing to the Commissioner during public hearings. The blue cards collected at both the May 31, 2001, hearing and the June 18, 2001, hearing have been docketed and received into the record.

In addition to the elected officials, many representatives of community organizations and homeowners associations as well as individual residents addressed the Committee. The transcripts of both the May 31, 2001, and June 18, 2001, hearings are posted on the Commission's website and are incorporated by reference as if fully set forth herein. The speakers' comments at both hearings may be found in their entirety in the transcripts. Some of the comments are also summarized below.

Staff Assessment

The Staff Assessment, which was posted on the Commission's website on June 13, 2001, and received into the record on June 14, 2001, is attached hereto and incorporated herein by reference. In addition, Staff issued a Staff Supplement on June 20, 2001, to address issues raised by the local community regarding land use, soil and water, and geological resources related to seismic hazards. The Staff Supplement is also attached hereto and incorporated herein by reference. Staff conducted a "fatal flaw" analysis for all technical areas except for air quality and determined that all areas of concern except for air quality could be fully mitigated in accordance with the proposed conditions contained in the Staff Assessment.

Issues of Concern

The following issues were identified at the hearings and during the review and consideration period that followed.

Air Quality

Air pollution control for the project is proposed in two phases. In the first phase from September 30, 2001, until March 2002, the turbines would operate without SCR and emit up to 25 parts per million (ppm) of NO_x. The second phase includes steam injection utilizing heat recovery steam generators (HRSG) and a Selective Catalytic Reduction (SCR) system to reduce NO_x emissions to 2.5 ppm, and an oxidation catalyst to reduce carbon monoxide emissions to 4 ppm and volatile organic compound emissions to 1.4 ppm. These catalyst systems are needed to meet the Best Available Control Technology (BACT) requirements. Applicant filed a Permit to Construct

application with the South Coast Air Quality Management District ("Air District") on May 4, 2001, and filed additional requested information in early June 2001.⁶

Staff defers to the local air pollution control district for the air quality impact analysis (AQIA) of emergency power plant applications. The Air District conducted an AQIA and determined that the first phase of the project would not meet Air District requirements for a Permit to Construct. The Staff Assessment therefore could not recommend project approval without the Air District's notice of intent to issue a Permit to Construct for the project. (Staff Assessment, p. 1.)

At the June 18, 2001, hearing, Dr. Barry Wallerstein, Executive Officer for the Air District announced that the Air District could not issue a Permit to Construct for Phase I of the project. With respect to Phase II, the Air District's analysis indicates that the project would likely comply with the rules for BACT. The record indicates however that Applicant cannot obtain and install the BACT equipment until after September 30, 2001. In addition, the federal Clean Air Act requires an "alternatives" analysis prior to issuing the permit. The Air District requested guidance from the U.S. Environmental Protection Agency (USEPA) regarding this requirement. On June 19, 2001, Dr. Wallerstein sent a letter to Commissioner Pernell reiterating the Air District's position. (Exhibit 18.)

On June 19, 2001, Energy Commission staff submitted an "alternatives" analysis for the project, which includes a description of the site selection process for emergency power plant applications.⁷ The analysis indicates that the Inglewood Oilfield site chosen for the project was identified in the Energy Commission's February 2001 report to the Governor as one of the 32 suitable peaking power plant sites for the emergency permit process. (Staff's Alternatives Analysis, p. 9.) Staff noted that "any attempt to move the project to another site at this date would make it exceedingly unlikely that the project could be online by September 30, 2001." (*Ibid.*)

If the project were approved, Staff proposed Condition of Certification **AQ-1** to require Applicant to limit fugitive dust emissions during construction. The Staff Analysis also

⁶ At the May 31, 2001, hearing Pang Mueller, Manager of Permitting and Compliance for the Air District, noted that the application was incomplete and used an unacceptable emissions model.

⁷ At the public hearings, one of the major topics of concern referred to the site selection process. Staff's "alternatives" analysis describes this process in detail. (Staff's Alternatives Analysis, pp. 7-9. This document is posted on the Commission's website.)

includes Conditions of Certification **AQ-2** and **AQ-3** which would require Applicant to comply with the Permit to Construct and Permit to Operate, if issued by the Air District, and to comply with Best Available Control Technology standards. See Staff Assessment, Air Quality section and related Conditions of Certification.

Natural Gas Supply

The project will use an estimated 10,000 MCF per day (430 MMBtu/hr) of pipeline-quality natural gas.⁸ SoCalGas currently purchases natural gas produced at Stocker Resource's Inglewood Oilfield through their 12" 500 psig line within the oilfield that connects to their main line in La Cienega Boulevard. A separate 6-inch connection to the 12-inch line will be constructed to supply natural gas for the project turbines. On May 14, 2001, SoCalGas provided written assurance of the availability of natural gas supplies for the project.

To assure project compliance with all applicable engineering design codes and fire protection codes the Staff Assessment recommends that in addition to standard Conditions of Certification **HAZ-1** and **HAZ-2**, supplemental conditions **HAZ-3** and **HAZ-4** should be imposed. Staff concludes that compliance with the standards will virtually preclude the potential for impact on the public as a result of natural gas handling at the proposed facility. See Staff Assessment, Hazardous Materials Management section and related Conditions of Certification.

Land Use

The project is proposed for a two-acre site wholly within the boundaries of the Inglewood Oilfield, which is leased by Stocker Resources for production of natural gas and oil. In addition, construction and equipment laydown areas will be located on the oilfield property at the southwest boundary of the site and directly south, across Oilfield Road. La Cienega Boulevard is directly west of the project site with additional oilfield production facilities located in the hills west of La Cienega. The oilfield property, natural gas production facilities, and oil derricks extend south of the project site for approximately 1.25 miles, where the property meets the boundary of Kenneth Hahn State Recreation Area. Inglewood Oilfield has been heavily graded and disturbed and

⁸ Project Application, sections 1.13 and 1.1.

has little natural vegetation other than patches of coastal sage scrub, shrubs and traces of native grasses.

The nearest residences to the project are located in the Blair Hills area, approximately 0.75 miles to the northwest, and in Ladera Heights, approximately 0.75 miles to the southwest. Residences to the northeast overlook the project site.⁹ Areas north of the proposed site on both the eastern and western boundaries of La Cienega Boulevard are designated for residential uses. Schools within a mile radius of the project site include OHR Eliyahu Academy, Saint Paul Presbyterian Preschool, Baldwin Hills Elementary School, and New Roads School. The West Los Angeles College campus is approximately 1.0 mile directly west of the project.

The entrance to Kenneth Hahn State Recreation Area, which abuts the Inglewood Oilfield on the east, is approximately 0.50 mile north of the project site. Culver City Park, a component of the future Baldwin Hills Park plan, is approximately 1.0 mile northwest of the proposed site. The Jim Gilliam Recreation Center is approximately the same distance away. Baseball diamonds and a community park associated with Kenneth Hahn State Recreation Area are located approximately 1.25 miles to the south of the proposed project site. A row of eucalyptus trees approximately 700 feet east of the proposed site at the park's boundary partially screens views of the project area from Kenneth Hahn State Recreation Area.

The proposed project is located on privately owned property within the boundary of the Baldwin Hills Conservancy. The mission of the Baldwin Hills Conservancy, working with other public and private agencies, is to acquire and manage lands for wildlife protection and restoration, recreation, and education. As part of its master plan for Baldwin Hills Park, the Conservancy hopes to eventually acquire the project site and surrounding areas when the oilfield ceases operation.

Because the Inglewood Oilfield is expected to remain in private hands during the approximately 30 remaining years of resource extraction, the Baldwin Hills Conservancy Master Plan will not be realized in the project area until oilfield operations cease. Therefore the Applicant asserts that the proposed project located within the oilfield will

⁹ The project site lies within a small valley, and the surrounding topography is characterized by slopes of 0-15 percent to the north and south and slopes up to 20 percent to the east and west.

not impede the development of Baldwin Hills Park. Staff proposes Condition of Certification **LAND-2** that would require the project to cease operation after 30 years, upon cessation of oilfield operations, or upon acquisition of the property by the Baldwin Hills Conservancy, whichever is soonest. See Staff Assessment, Land Use section and related Conditions of Certification.

Zoning

The Los Angeles County General Plan designates the proposed project site as Open Space (O-S). Open Space is considered in the Conservation, Open Space and Recreation element of the General Plan as resources including land and water areas devoted to recreation, scenic beauty, conservation and use of natural resources, agriculture and mineral production. The General Plan provides that land may be developed to any use permitted in Open Space (O-S) and Watershed (W) Zones of the County Zoning Ordinance, subject to the conditions and standards of those zones. The Zoning Ordinance (Title 22, Section 22.40.430) indicates that power plants are an acceptable use within an O-S zone, although development would require a Conditional Use Permit.

The County Zoning Ordinance designates Stocker Resources' oilfield operations and the proposed project site as Heavy Agricultural (A-2). Power plants are an acceptable use within an A-2 zone,¹⁰ although development would require a Conditional Use Permit. The purposes of the General Plan Open Space designation include mineral production, which is consistent with the existing oilfield operations and their A-2 zoning designation. Based on both the General Plan Open Space designation and the A-2 zoning, the project is an allowable use with a Conditional Use Permit.

Before the issuance of a Conditional Use Permit, the Los Angeles County Regional Planning Department would evaluate the following issue areas: consistency with the General Plan; compatibility with surrounding land uses; hours of operation, types of activities, number of occupants, etc.; conditions and restrictions to ensure compatibility; land suitability and physical constraints; project design; availability of adequate access, public services, and facilities to serve the proposed development; potential environmental impacts and mitigation measures. At the June 18 Public Hearing, County

¹⁰ See Los Angeles County Zoning Ordinance, Title 22, Section 22.24.150.

Supervisor Brathwaite Burke stated that the Board of Supervisors has voted to oppose development of the project at the proposed site.

In discussions with Staff prior to the June 18 hearing, the County Regional Planning Department indicated that the proposed project would not be inconsistent with their planning policies, although the Department expressed a number of concerns including potential community impacts, air emissions, noise, and visual impacts. The Staff Assessment addresses those factors and other project impacts, with the exception of air emissions that are the responsibility of the Air District. See Staff Assessment; Noise, Hazardous Materials, Biological Resources, Land Use, Traffic and Transportation, Soils and Water Resources, Cultural Resources, Paleontological Resources, and Visual Resources sections.

Commission staff determined that the requirements for a Conditional Use Permit are fulfilled by the proposed Conditions of Certification, with the exception of conditions relating to air emissions. See Staff Assessment, Air Quality section. After analysis of the General Plan and the industrial nature of the surrounding oil field operations, staff believes that the proposed project is a compatible land use and consistent with the Open Space General Plan designation and the A-2 zoning designation.

The General Plan Conservation and Open Space Policy 2 indicates that “proposed regional parks and recreation areas (are) based on current federal, state, city, and county proposals” and “acquisition is subject to available funding.” General Plan Goal and Policy 25 “Stress(es) the development of community parks particularly in areas of the greatest deficiency, and take advantage of opportunities to preserve large natural and scenic areas”. Goal and Policy 17 seeks to “establish and implement regulatory controls that ensure compatibility of development adjacent to or within major public open space and recreation areas including National Forests, the National Recreation Area, and State and Regional Parks.” The master plan for the proposed Baldwin Hills Park anticipates acquisition of the oilfield area including the project site, although that will not occur until the oilfield ceases operation. To ensure consistency of the project with the General Plan policies and plans for Baldwin Hills Park, Staff proposed Condition of Certification **LAND-2** as described above.

The General Plan Design Policy 15 seeks to “protect the character of residential neighborhoods by preventing the intrusion of incompatible uses that would cause

environmental degradation such as excessive noise, noxious fumes, glare, shadowing and traffic.” Staff concludes that such impacts are not expected to occur with imposition of the conditions proposed in its Staff Assessment. Therefore, Staff found the proposed project would be consistent with General Plan Design Policy 15. The Staff Assessment addresses those factors and other project impacts, with the exception of air emissions that are the responsibility of the Air District. See Staff Assessment; Noise, Hazardous Materials, Biological Resources, Land Use, Traffic and Transportation, Soils and Water Resources, Cultural Resources, Paleontological Resources, and Visual Resources sections.

Artesian Company, LTD, currently owns the project site. Applicant has not provided evidence of site control. Staff proposed additional Condition of Certification **LAND-3**, which would require the Applicant to submit evidence of site control to the Compliance Project Manager prior to the start of any construction activities.

Implementation of Standard Condition of Certification **LAND-1** would ensure that the Applicant conforms to all local, state and federal land use requirements. See Staff Assessment, Land Use section and related Conditions of Certification.

Biological Resources

The project site is a two-acre area adjacent to an oil derrick. The site is wholly surrounded by the Inglewood Oilfield, which is leased by Stocker Resources for production of natural gas and oil. Native vegetation surrounding the site includes the largest and most significant remaining expanse of coastal sage scrub plant community in the Los Angeles Basin. It provides important natural habitat to several species of birds and mammals that do not occur in the surrounding urbanized lowlands. Coastal sage scrub is considered a sensitive habitat type that potentially supports many Threatened, Endangered, or Sensitive (TES) species, although these species have not recently been observed within the oilfield.

A swale or basin within the transmission line corridor supports a disturbed alkalai meadow or vernal pool habitat. Although there have been no observations made of vernal pool or wetland TES species within the oilfield, the U.S. Fish and Wildlife Service (USFWS) has expressed concern that one or more of the species may be present in the sensitive habitat. Riverside fairy shrimp presence can only be determined through

USFWS protocol surveys. To avoid impacts to potential TES species habitat within the vernal pool basin, Staff recommended Condition of Certification **BIO-8**.

California Department of Parks and Recreation (CDPR) and U.S. Fish and Wildlife Service (USFWS) have expressed concern that the development of the project site can have the potential to interfere with the re-establishment of important wildlife habitat corridors. Several large and relatively intact sections of coastal sage scrub occur within the Inglewood Oilfield specifically, and in the Baldwin Hills area generally. These sections form the backbone of what could be an extensive network of natural habitat corridors within the hills. Staff has reviewed the priority habitat linkages identified in the Baldwin Hills Park Planning Documents and determined that project site does not impact any of the identified linkages. Therefore, no mitigation to establish linkages is required.

The coastal sage scrub habitat surrounding the site supports high densities of breeding birds, which can be adversely affected by excessive noise levels. Noise levels generated by the plant are estimated at 70 dBA. USFWS recommends that measures be taken to reduce the noise level at the project site below 60 dBA to reduce impacts to breeding birds. Noise mitigation to address this issue is included in the Staff Assessment, Noise section. USFWS has also expressed concern that the coastal sage scrub communities may be adversely affected by nitrogen deposition from the project. Implementation of Condition of Certification **BIO-7** would ensure that Applicant submits a nitrogen deposition isopleth to USFWS prior to start of operations to determine the project's impacts and to allow development of appropriate mitigation measures.

Although no TES wildlife species were observed during a biological survey conducted by Natural Resource Consultants on May 2, 2001, TES wildlife species could occur within the sensitive coastal sage scrub and vernal pool habitats associated with the project footprint and transmission line corridor. Therefore, Condition of Certification **BIO-9** would require the presence of a qualified biologist onsite to monitor site mobilization and construction activities.

The Conditions of Certification proposed in the Staff Assessment provide appropriate mitigation measures for the affected biological resources. See Staff Assessment, Biological Resources section and related Conditions of Certification.

Water Supply and Consumption

Water will be required for both evaporative inlet air cooling and combustion chamber cooling. The project's two gas turbine engines will consume approximately 340 gallons per minute (gpm) of water during peak operating times. Fresh water will be supplied through the existing Inglewood Oilfield on-site water system interconnection by the California-American Water Company, which provided a will-serve letter to the Applicant. The fresh water will be demineralized to make it suitable for water and steam injection into the turbines.

Wastewater

Wastewater from the demineralization and generating processes will be commingled with water produced by resource extraction at the Inglewood Oilfield and sent to the existing onsite treatment facility. The treated water will be reinjected into the oilfield as part of its waterflood process through Class II injection wells regulated by the California Division of Oil, Gas, and Geothermal Resources (DOGGR) Underground Injection Control program (UIC). DOGGR has indicated that the Applicant must submit notification to determine permitting requirements for the reinjection of treated water. Implementation of Condition of Certification **SOIL & WATER-4** would ensure that prior to operations, Applicant submits documentation of all DOGGR UIC requirements to ensure appropriate wastewater disposal.

Applicant advises that the construction crew will utilize portable toilets serviced by an authorized company. The project operations crew will utilize existing Inglewood Oilfield bathroom facilities.

A State General Construction National Pollution Discharge Elimination System will not be required for discharges associated with construction activity, as the total site including the project footprint and equipment laydown areas is less than 5 acres. Best Management Practices (BMPs) will be utilized to control construction stormwater runoff, though most if not all construction is anticipated to be complete prior to the rainy season.

Site stormwater runoff will be handled within the Inglewood Oilfield's existing stormwater system, which is permitted under a National Pollution Discharge Elimination System

(NPDES) permit. The existing NPDES permit would need to be revised to include provisions for this project. Industrial stormwater will be managed onsite by BMPs suitable for power generation facilities, which will be prepared in accordance with State Water Resources Control Board (SWRCB) guidelines. A Stormwater Pollution Prevention Plan (SWPPP) for industrial activity must be prepared in accordance with SWRCB guidelines. Staff proposed new Condition **SOIL & WATER-5** that would require Applicant to submit the revised SWPPP for industrial activity to the Energy Commission's Compliance Project Manager.¹¹ In addition, Applicant would be required to contact the County Department of Public Works, Waste Management Division, to determine applicable BMPs for the project. See Condition **SOIL & WATER-1**. (See Staff Assessment, Soil and Water section.)

Spill Prevention/Water Quality Protection Plans

The total quantity of oil onsite (stored and in process) exceeds the threshold quantity of 1,320 gallons. Pursuant to Title 40 Code of Federal Regulations, Section 112.1 (d) (2), a Spill Prevention Control and Countermeasure Plan for the facility is required. Up to 5,000 gallons of a 19 percent aqueous ammonia solution for use in the Selective Catalytic Reduction (SCR) system will be stored onsite in a steel tank built within a secondary containment. A California Accidental Release Prevention Program plan must be approved by the Los Angeles County Fire Department prior to introduction of the chemical on site. Condition **HAZ-2** would require the Applicant to submit a Risk Management Plan. See Staff Assessment, Soil and Water section and related Conditions of Certification.

Soils

To address the potential for erosion and sedimentation through ground disturbance and runoff, a detailed erosion and sediment control plan addressing grading, sedimentation controls, road sections, drains, etc., will be required to ensure that construction and operation of the project will conform to regulatory requirements. Standard Condition of Certification **SOIL & WATER-2** would require submission of an acceptable plan to the Compliance Project Manager for approval prior to site mobilization. See Staff Assessment, Soil and Water section and related Conditions of Certification.

¹¹ Staff's new Condition **SOIL & WATER-5** is identified in the Staff Supplement at p. 3.

Hazardous Materials

Up to 5,000 gallons of 19% aqueous ammonia will be stored on site and used to reduce nitrogen oxide emissions in a Selective Catalytic Reduction process to meet air quality permit requirements. The project will need to comply with the California Accidental Release Prevention Program. Aqueous ammonia is typically handled safely and without any major accidents. However, an accidental ammonia release could occur due to either storage tank failure or mishandling during unloading of a delivery truck. The closest residence is more than half a mile northeast of the project site and is unlikely to be significantly impacted in the event of such a release. Persons on La Cienega Boulevard or at Kenneth Hahn State Recreation Area, 400 and 700 feet, respectively, from the eastern edge of the site property could be impacted unless appropriate mitigation measures are implemented. The Staff Assessment requires the use of an adequately and appropriately engineered storage and containment system as set forth in Conditions **HAZ-3** and **HAZ-4**. The project would be required to comply with the California Accidental Release Prevention Program.

Natural gas will not be stored on site but supplied through a 6-inch interconnection to the existing oilfield supply pipe. In addition to compliance with all applicable engineering design and fire protection codes as required by Conditions of Certification **HAZ-1** and **HAZ-2**, the Staff Assessment recommends supplemental Conditions **HAZ-3** and **HAZ-4** to minimize any potential for impact on the public as a result of natural gas handling at the project. See Staff Assessment, Hazardous Materials Management section.

Geologic and Seismic Hazards

Staff examined the proximity of the Newport-Inglewood fault, and concluded that an earthquake along that fault could result in severe ground vibration and possibly some ground cracking at the project site. The Staff Assessment determined that in such conditions, the project design should conform to the most stringent seismic building standards set forth as Zone 4 standards of the California Building Code and be reviewed by a competent engineering team. See Condition of Certification **GEOL-1**. Staff further notes that the potential for ridge-top spreading may require special mitigation measures as set forth in Condition **GEOL-2**. Condition **GEOL-3** requires a site-specific liquefaction study. The Committee received public comments expressing

concern about potential geologic hazards at the project site. Under the Energy Commission's compliance process, the Applicant would be required to conduct a detailed comprehensive evaluation by qualified engineers and to submit a geotechnical report. See Staff's Supplement to the Staff Assessment at pp. 3-4.

Noise

The main sources of noise in the vicinity of the proposed project are the existing Stocker Resources oilfield and natural gas operations. Heavy machinery and equipment used in the extraction process as well as maintenance vehicles, facility activities, and personnel add extensively to noise in the vicinity. In addition, La Cienega Boulevard, a high-use primary arterial through the Los Angeles Basin, is located approximately 400 feet west of the proposed site and contributes significantly to the noise in the area. Kenneth Hahn State Recreation Area, located approximately 700 feet to the east of the site includes high levels of use resulting in intermittent high levels of noise in the vicinity. The hilly topography and forested terrain surrounding the project site attenuate noise levels from the existing oilfield.

Noise modeling and acoustical calculations were conducted for Applicant by acoustic consultants to estimate sound levels from the proposed project. The County of Los Angeles Noise Ordinance (Section 12.08.390), which establishes exterior noise standards for all receptors within a given land use zone, was used to determine noise limits. The land use designation and time of day determine the applicable noise standard for a particular land use zone and receptors within that zone. The County Noise Ordinance limits for residential properties are 45 decibels (dBA) for the hours of 10:00 p.m. to 7:00 a.m. and 50 dBA for the hours of 7:00 am to 10:00 p.m.

Since the use as a power plant is an industrial land use, onsite noise generation would be limited by the threshold for industrial noise. The Applicant has indicated that the project would generate noise levels at 70 dBA at the nearest property line, which is complies with the County Noise Ordinance limits of 70 dBA for industrial designations.

Information supplied by the Applicant estimated the noise level from the project would be 35 dBA at the nearest residence and 58 dBA at the oilfield property line adjacent to La Cienega Boulevard. Both of these levels are within the acceptable range established by the above mentioned Noise Ordinance.

The nearest sensitive receptors to the proposed project are multi and single family residences approximately 0.5 mile to the northwest of the project site. The next closest residential properties are approximately 0.75 of a mile from the proposed site. However, with the increased distance from the project location, the sound level outside the 0.75-mile radius is expected to be well within acceptable Noise Ordinance limits. Implementation of Standard Conditions of Certification **NOISE-2** and **NOISE-3** would ensure that all residents within a one-mile radius are notified before construction of the proposed project begins and that the Applicant investigates all noise related complaints and attempts adequate resolution.

Users of the nearby Kenneth Hahn State Park would also be susceptible to noise generated by the proposed project, as would oilfield personnel. The County has not established a noise threshold for park use, so the noise threshold for the land use that most closely resembles the true land use would be applied. This would be the residential threshold, since the recreation area could be used by children or the elderly.

However, the park is generally used during the daylight hours and is not subject to residential p.m. limits; therefore, Staff believes that the daytime residential threshold of 50 dBA would be most applicable. Information supplied by the Applicant estimates the noise at the property boundary adjacent to the Kenneth Hahn State Recreation Area would be 50 dBA.

Construction-related noises are not expected to exceed any level currently emitted from the oilfield property, the project site or the general vicinity. If construction is conducted during evening and nighttime hours, implementation of Condition of Certification **NOISE-4** would ensure that the Applicant is in compliance with all applicable noise standards set forth in the Los Angeles County Noise Ordinance for p.m. hours.

Implementation of Standard Condition of Certification **NOISE-1** would require Applicant to comply with all applicable community noise standards. Within the first 30 days of project operation where 80 percent or greater of capacity is generated, the Applicant shall conduct a 25 hour survey to ensure that noise level at the nearest sensitive receptors (residential properties and the recreation area) are both within the acceptable limits of 45 dBA and 50 dBA respectively. If the noise exceeds the above mentioned levels, mitigation measures shall be implemented to reduce levels to comply with the established limits.

The coastal sage scrub habitat surrounding the site supports high densities of breeding birds, which can be adversely affected by excessive noise levels. Noise levels generated by the plant are estimated at 70 dBA. Research has shown that ambient noise levels above 60 dBA may result in decreased breeding success in some songbird species. USFWS recommends that measures be taken to reduce the noise level at the proposed plant operating site to below 60 dBA in order to reduce impacts to breeding birds within the coastal sage scrub habitat (USFWS 2001). Staff recommends the noise survey required under Condition **NOISE-1** also measure noise levels at the nearby coastal sage scrub habitat. If noise levels are found to be greater than 60 dBA, mitigation measures shall be implemented to reduce levels to comply with the established limits.

To establish a noise complaint process during construction, implementation of Standard Condition of Certification **NOISE-2** would ensure that all residents within one mile of the project site are notified prior to start of construction activities. Condition of Certification **NOISE-3** requires that all noise complaints are addressed and adequate resolutions are proposed. Standard Condition of Certification **NOISE-4** is required if evening or nighttime construction occurs. See Staff Assessment, Noise section; and Application, Noise sections. Standard Condition of Certification **NOISE-1** would require Applicant to conduct a community noise survey. See Staff Assessment, Noise section.

Visual Resources

Visual resources at the proposed project site and in the immediate vicinity are considerably degraded, as a result of the Stocker Resources Inc.'s oilfield operations. The adjacent property contains equipment and facilities characterizing oil and natural gas production. In addition, there are electrical transmission corridors parallel to the eastern and western property boundaries of the site, and distribution power lines running throughout the oilfield property.

The topography in the immediate vicinity of the proposed site has slopes and gradients ranging from 0-20 percent. Views of the proposed facility would be available from every direction within a one-mile radius of the project site, most notably from residents on the western and eastern ridges overlooking the site. Currently, views of the site from the adjacent Kenneth Hahn State Recreation Area are partially screened by eucalyptus trees and other landscaping.

Ladera Heights, a residential community approximately 0.75 miles to the southwest of the proposed site and Blair Hills, a residential area approximately 0.75 miles to the northwest of the site, would have views of the stacks and portions of the modular components of the project. Motorists traveling either north or south on La Cienega would have intermittent views of the facility due to the undulating topography surrounding the project site.

The introduction of a facility that proposes modular components approximately 20 feet in height and exhaust stacks of 70 feet would increase the visual impact to nearby park users. Staff therefore determined that the proposed project would increase the overall visual impacts in the immediate and general vicinity.

The Applicant proposed a landscape plan using cluster shrubs to screen the project on the western boundary of the site to screen views from motorists on La Cienega Boulevard. The proposed landscaping would include approximately 600 feet of large shrubs, providing partial screening on the western and eastern boundaries of the project site. The Applicant also proposed an additional 200 feet of large shrubs at the northern boundary of the project site to help screen views from approaching motorists on La Cienega, the entrance to the Kenneth Hahn State Recreation Area, and residents of Blair Hills residential development. South approaching motorists using La Cienega Boulevard will have intermittent views of the stacks. The Applicant has not proposed landscaping for the southern boundary of the project site.

Staff concluded that the project would add to the existing negative impact of the oilfield operations and further degrade the visual resources of the existing Kenneth Hahn State Recreation Area and the surrounding residential areas. Staff therefore recommended additional visual mitigation to screen views of the project from these areas. Condition **VIS-3** would require either onsite or offsite landscaping as appropriate to screen these areas. This landscaping plan must be consistent with the planned landscaping of the Baldwin Hills Park and must be approved by the Compliance Project Manager and made available to the California Department of Parks and Recreation and the Baldwin Hills Conservancy for review and comment.

Environmental Justice

Senator Kevin Murray, Assemblyman Wesson, Supervisor Brathwaite Burke, the Center for Law in the Public Interest and many others raised general questions about the overall pattern of locating sites for emergency power plant projects, including the presence of minority communities near emergency projects. The Energy Commission responded in a letter to Senator Murray, dated June 8, 2001, which is posted on the Commission's website for this proceeding. (Exhibit 9.)

For all sitting cases, Staff follows the U.S. Environmental Protection Agency's guidance in conducting a two-step environmental justice analysis. This analysis assesses:

- Whether the potentially affected community has a population that is more than 50 percent minority and/or low-income; and
- Whether the environmental impacts are likely to fall disproportionately on the minority and/or low-income population.

Staff determined the affected area for the environmental justice analysis in this case would be the area within a six-mile radius of the project site. The affected area is defined as the area potentially impacted by the proposed project, focusing on air quality and public health. The 2000 census indicates that approximately 56 percent of the persons in census tracts wholly or partially within a six-mile radius of the project site are persons of color. Staff used census data from 1990 to determine whether low-income demographics predominate in the affected area and concluded that there is not a majority of low-income populations in the area. See, Staff Assessment, pp. 37-38.

With the exception of air emission impacts, the Conditions of Certification proposed by Staff are intended to reduce all potential project-related environmental impacts to less than significant levels for those technical areas where the evaluation of this project is complete. Since there was no showing of unmitigated significant impacts for the technical areas reviewed by Staff, it was not necessary for Staff to perform the second step of the analysis to determine whether there are "disproportionate" impacts on a minority or low-income community. Staff will complete its evaluation when the appropriate air emissions analysis has been completed by the Air District. Community organizations questioned the Staff Analysis on environmental justice, especially

regarding use of 1990 census data to locate low-income populations. Staff expects to update its census data and other demographic information when a complete environmental justice analysis, including air quality impacts, is required for this project.

Public Comment at the May 31, 2001, Hearing

The Staff Assessment addressed the following comments as areas of concern raised by the elected officials, community organizations, and local residents. (See, Staff Assessment, Appendix A “Response to Public and Agency Comments,” pp. 89-110.) The comments are summarized below to illustrate the diversity of concerns raised by the affected community.

1. Senator Kevin Murray stated that the large turnout at the public hearing demonstrated the importance to the community of the Baldwin Hills Conservancy and Kenneth Hahn State Park. Los Angeles is “park poor” with less than ten percent of the park facilities of other cities. The immediate area of the project has even fewer park resources than other sections of Los Angeles. Senator Murray regards the expansion of Kenneth Hahn State Park, including the \$41 million dollars purchase of the adjacent Vista Pacifica property, as his most important legislative effort. He and Assemblyman Herb Wesson believe that the emergency siting process has not provided sufficient notice of the proposed project, particularly posting the notice of the informational hearing the day before a holiday weekend.

Senator Murray opined that Stocker Resources has not been a bad neighbor to the park, and has participated in the planning efforts of the Baldwin Hills Conservancy. He noted that while all communities have to make sacrifices related to the current energy crisis, placing a power plant next to a state park has not been proposed in any other location in California. Because the proposed plant will be in a canyon, emissions from the stacks will be at the level of residents’ backyards and the playground of Windsor Hills Elementary School. In addition to air quality issues, the transportation of ammonia through residential neighborhoods and its use and disposal present environmental concerns.

Senator Murray further observed that most of the hearing participants obtain electricity from Edison, and do not have the rate and blackout protections available to customers of the Los Angeles Department of Water and Power. In consequence, residents will not

receive any direct benefit from local generation of power, despite enduring the negative effects of a power plant in their backyard. Instead, the locally generated power will be sold by Applicant to the statewide grid. Finally, there is no guarantee that local residents will obtain jobs associated with the project.

2. Richard Rios, representing Assemblyman Herb Wesson, commented that while the state needs to generate more energy the proposed plant should not be located adjacent to Kenneth Hahn State Park and the proposed Baldwin Hills Conservancy. Mr. Rios noted that the proximity of the proposed plant to the park was not identified in the application, and should be considered in the siting process.

3. Daniel Hinerfeld, representing City Councilman Mike Feuer, urged the Commission to re-site the proposed plant to an area that would not have an affect on Kenneth Hahn State Park and the proposed 1,200-acre Baldwin Hills Conservancy area. He stated that the complex social, environmental, and economic issues involved should be given a full public hearing process. Councilman Feuer will introduce a resolution opposing the proposed site, and calling on the City to work with the Applicant and other agencies to find a more appropriate location for the project.

4. Esther Feldman, President of Community Conservancy International, and David McNeill, Public Affairs Director of Community Conservancy International and Executive Director of the Baldwin Hills Conservancy, made a presentation describing the Baldwin Hills Park Project¹². The creation of Baldwin Hills Park, the largest urban park project in the United States, is expected to take 30 years. The park project has received funds from private and public agencies, including the California Department of Parks and Recreation and the California State Coastal Conservancy. The Baldwin Hills Park Advisory Committee includes representatives of 15 homeowner associations, 12 public agencies, Applicant, elected officials, and many other organizations and landowners.

Mr. McNeill noted that there are presently only 832 acres of parkland in the area, of which approximately 500 acres is the Kenneth Hahn State Park. That adds up to only one acre of open space per 1,000 people, in contrast to recommended standards of six to ten acres per 1,000 people. The deficit of parks in the area is reflected in the

¹² See Exhibit 3, materials distributed at informational hearing by Community Conservancy International and Baldwin Hills Conservancy.

statistics of only one playground per 23,000 children, one soccer field per 34,000 people, one picnic area per 10,000 individuals, one gym per 100,000 people, etc.

Ms. Feldman stated that construction of the proposed power plant would make it impossible to realize the planned “one big park” concept of the Conservancy’s Baldwin Hills Park Master Plan. The project would be immediately adjacent to a number of high volume recreation facilities, such as baseball fields, and the proposed land bridge over La Cienega Boulevard. Ms. Feldman also noted that placement of a power plant in the middle of the planned park would foreclose the Conservancy’s efforts to raise public and private funds. She distinguished the oilfield, a finite resource expected to be depleted in 25-30 years, from a power plant of unlimited duration. Ms. Feldman noted that once a power plant is built it does not go away, and California has no history of removing power plants once built.

The Baldwin Hills Park area is the last large area of undeveloped open space in Los Angeles County, and provides natural habitat for native species including 72 plants, hundreds of insects, 21 mammals, and 164 birds. In response to Commissioner Pernell’s question, Ms. Feldman acknowledged that none are on lists of endangered species.

Baldwin Hills is part of the 127 square mile Ballona Creek Watershed which drains through Ballona Creek, the second most polluted creek in the United States, and into Santa Monica Bay. Mr. McNeill commented that it is important to keep the Baldwin Hills in a natural state to avoid further degradation of the watershed. He also expressed concern about the effect of the proposed power plant on views from the current park and Baldwin Hills.

5. Steve Treanor represented the California Department of Parks and Recreation, and stated that the Department recognizes the necessity for parklands and recreational facilities in the Los Angeles area. Governor Davis has charged the Department with creating new parks and park programs, and Baldwin Hills is one of its most important sites. The Department operates Kenneth Hahn State Park and a 68-acre parcel, recently purchased with \$51 million of public funds, on the periphery of the Inglewood Oilfield. Mr. Treanor observed that the record \$251 billion dollar bond issue passed by California voters last year was due in large part to the efforts of area residents.

Mr. Treanor noted his Department's concern that the proposed power plant may impact the values of current and planned parks in the Baldwin Hills. Mr. Treanor advised that the Baldwin Hills Park Conservancy Board of Directors, on which he represents the Department's Director, would provide further comment to the Energy Commission.

6. Pang Mueller, Manager of Permitting and Compliance for the South Coast Air Quality Management District, described her agency's role in the permitting process. Pursuant to the authority of state and federal law, the Air District can issue permits to entities that emit air pollutants. The Air District examines applications to assure that a project complies with relevant air quality laws and regulations.

The Air District will examine Applicant's project for use of Best Available Control Technology, for total offset of emissions, and for a modeling analysis that will assure that any increase in emissions will not have significant impact to the community. The Air District will issue notices regarding its 30-day public comment and review process to individuals who signed the Commission's mailing list. Ms. Mueller stated that she was unable to comment on the details of the application, and that Applicant is still submitting information to her agency¹³. She noted that the turbines may arrive earlier than the air pollution control equipment, and the Air District would require Applicant to address that issue.

7. Steve Wilburn, President of Applicant La Jolla Energy Development, Inc., responded to questions raised by Commissioner Pernell and participants in the informational hearing. With regard to concerns about the visual impact of the project, he noted that there are presently 75 to 90-foot stacks in the vicinity of the 70-foot stacks proposed for the project¹⁴.

Mr. Wilburn noted that the project, a natural gas plant, will not emit smoke. The exhaust gas emissions from the turbines will be fully offset. In addition, Applicant has voluntarily agreed to comply with the standard of 2.5 parts per million nitrous oxide, while other facilities in the Air District area meet only the 5 parts per million standard.

¹³ See subparagraph 15, below, regarding the unacceptable emissions model in Applicant's permit application.

¹⁴ See also Exhibit 1, photographs and written materials distributed at informational hearing by Applicant La Jolla Energy Development, Inc., and Stocker Resources, Inc.

Mr. Wilburn described that the ammonia used for the project would be stored on site in double-walled leakproof tanks with spill containment in compliance with state and local ordinances. Steve Rusch, P.E., Manager of Governmental Affairs for Stocker Resources, Inc., noted that the project will use 19 percent aqueous ammonia rather than anhydrous ammonia, which is acutely toxic. He stated that the project will comply with all relevant regulations pertaining to the use and storage of ammonia.

Mr. Wilburn stated that Applicant hires staff locally for all of its California energy plants, unless technical positions cannot be filled from the immediate area. Applicant's power plants are constructed by a union contractor using union labor hired out of local halls.

8. Congresswoman-elect Diane Watson, a resident of the Baldwin Hills area since 1970, submitted a position statement in opposition to the project.¹⁵ In addition, she commented that in 1979 she carried legislation to acquire parkland for area residents and later legislation to name the park after Kenneth Hahn. She expressed concern regarding geological instability in the oilfields, and that the project will spew toxic fumes out of 70-foot stacks. She stated that parks are for people, not for power plants.

9. Tony Nicholas is the President of the United Homeowners Association, and spoke on behalf of that group and a coalition of homeowner groups representing over 12,000 residents. Mr. Nicholas expressed the Association's concern with placement of the project immediately adjacent to Kenneth Hahn State Park, and the lack of an environmental study in the Commission's 21-day "fast track" process. He stated that Applicant did not advise either the local community or its legislative representatives of the project, and the first indication of the proposal was a small notice in the Los Angeles Times the Friday before Memorial Day weekend. Mr. Anthony asserted that no one would propose a power plant for the middle of Golden Gate Park or Central Park. He urged that the proposal to site the project immediately next to Kenneth Hahn State Park be rejected.

Mr. Anthony also presented a written statement by the Coalition Opposing the Baldwin Energy Facility.¹⁶

¹⁵ See Exhibit 6, Position Statement.

¹⁶ See Exhibit 4, the May 31, 2001, letter of the Coalition Opposing the Baldwin Energy Facility.

10. Steve Leon is Secretary of the Ladera Heights Civic Association which represents 4,000 homes to the immediate south of the project site. Mr. Leon stated that he can view the site from his yard and the back windows of his house. Mr. Leon commented that the Applicant should withdraw its application, and work with community groups to turn the area into the planned Baldwin Hills Park. He further stated that the fast-track process does not annul the Commission's legal and moral responsibilities to the public who appeared at the informational hearing, and recommended that the Commission deny the application.

11. Lisa Baker posed questions to the Applicant regarding why the site was chosen, and whether consideration was given to commuters who travel through the area every day. Mr. Wilburn answered that he selected the site from a list of prescreened locations identified by the Energy Commission staff. He considered that the oil fields would be in operation for at least 25 years, and the project would be consistent with that use and time period. Applicant responded to the Governor's solicitation of companies for plants that could be on line and producing needed power by September 30, 2001.

Commission staff described its process of identifying sites for emergency projects, and the information available on the website regarding the criteria for and list of the sites. Mr. Wilburn noted that the project would not be inconsistent with the long-range goals of the Baldwin Parks Conservancy project.

Ms. Baker stated that she does not believe the power plant project is an appropriate use of the site.

12. Theodore Irving asked why landfill sites were not considered for the Commission's list of prescreened sites for peaker plants. Commission staff stated that some locations on the list might be landfills, but that landfills were not specifically sought out for placement on the list.

13. Victor Bullock's first question dealt with consideration of population density with regard to the Commission's list of prescreened sites. Staff answered that local population density was not one of the criteria used to select power plant sites. Mr. Bullock's additional questions concerned water usage at the project, whether water discharge will be contaminated, and any related remediation procedures. Mr. Wilburn and Mr. Rusch advised that there would be no off-site discharges of wastewater.

Applicant will demineralize drinking water for the turbines. The resulting solids will be added to the produced water stream that comes up with oil in the drilling operations, and reinjected into the ground. The reinjected water will be cleaner than when it came out of the ground, and in consequence there will be no waste stream from water usage.

14. Beverly Kendrick asked about the environmental impact report and the timing of the 21-day process. Commission staff noted that for the 21-day process no environmental impact report is required, but its Staff Assessment will include detailed examination of environmental issues including traffic, biology, cultural resources, visual impact, noise, etc. Staff also noted that the Staff Assessment would be available on the Energy Commission website. The application was deemed complete on May 24, 2001, which triggered commencement of the 21-day process.

15. Yusuf Hassan, a freelance reporter for NPR, questioned whether any wind testing had been performed to precisely identify where exhaust gasses would be blown. Ms. Mueller, of the South Coast Air Quality Management District, answered that the emissions model that Applicant submitted to her agency was found to be inadequate. The Air District directed Applicant to submit additional information and reanalyze data using an approved model.

16. A question was posed concerning the respiratory problems suffered by many minority children. Applicant was for assurances that the proposed plant would not exacerbate those problems, especially in light of the elementary school located less than a mile from the proposed plant. Applicant noted Stocker Resources' progress in reducing emissions in its current operations, and that NOx emissions have been reduced from over 370 tons to less than 20 tons. Applicant intends to fully comply with the requirements imposed by the Air District and fully offset any emissions.

17. Theresa Walette representing City Councilman Mark Ridley-Thomas. Ms. Walette stated that as the Chairman of the Environmental and Waste Management Committee the Councilman will hold hearings and a community meeting to hear from the Applicant and the Air District.

18. MaryAnn Webster of the Sierra Club Angeles Chapter stated her organization's view that the project should be moved to another location. She acknowledged the

state's power needs, but observed that a plant should not be sited immediately next to Kenneth Hahn State Park and in the middle of a planned park project.

19. James Alamillo represented Save the Bay. He commented that although the plant will have only a two-acre footprint, the actual amount of impermeable surfaces created, including service roads, will create significant water quality impairment. Mr. Alamillo asked how the project would deal with the significant discharges that will result from proposed water use of 340 gallons per minute. He noted that the project will create contaminated sediments and runoff which will flow into Ballona Creek, a water body already polluted with heavy metals and toxins. Mr. Alamillo also stated that the environmental review of the 21-day process is insufficient.

Mr. Alamillo commented that Stocker Resources has not complied with current environmental requirements in its current operations, and its failure to maintain its property has resulted in the invasion of non-native species including ice plant and pampas grass.

20. Levon Newman represented the United Homeowners Association. He noted that the Baldwin Hills enjoy some of the cleanest air in Los Angeles County, and that the health of the community's residents is more valuable than one power plant. Mr. Newman acknowledged the need for more electricity production but urged consideration of other sources of power.

21. Tamara Hodgson asked why a plant was being built next to Kenneth Hahn State Park when there has been no serious effort to promote conservation. In response to this comment, the Energy Commission recognizes that both generation and conservation are necessary. In furtherance of conservation efforts, the Energy Commission has invested over \$109 million in energy efficiency efforts to reduce California's peak energy use.

22. Robert Garcia, Director of "The City Project" of the Center for Law in the Public Interest, presented a written statement¹⁷. He also commented that his agency represents an extraordinary coalition committed to the goal of halting the proposed project and saving Baldwin Hills parklands. Mr. Garcia stated that the project does not

¹⁷ See Exhibit 5, the May 31, 2002, letter of the Center for Law in the Public Interest

qualify for the 21-day process because it will operate 8,000 hours per year, and therefore is not a peaker plant. He further opined that the Energy Commission would not later pull the plug on a power plant. No other power plant is proposed for a state park, which he considers an environmental justice issue. Mr. Garcia noted that communities of color suffer disproportionately from environmental degradation, and are systematically excluded from the decision-making process.

23. Mim Shapiro of the Ballona Creek Project commented that if the project is approved Stocker Resources should be required to donate land in mitigation of the impact on the community. She opined that the construction should be landscaped to aesthetically camouflage the intrusion on the natural environment.

24. Mary Martin asked why the area residents were not notified of the proposed project six months ago. Commission staff responded that the Governor's emergency declaration did not occur until January 2001, and his Executive Orders establishing the 21-day process were published in February and March 2001. Jared Blakely asked why the project was not publicly announced. Staff described the public notice provisions of the emergency project process. Staff noted that for the subject project the required notice was provided to local residents, libraries, newspapers, etc., regarding the project and the informational hearing.

25. Applicant was asked what will occur when it ceases operation of the power plant project. Applicant responded that the lease for the plant runs out at the same time as the lease for the oil, and when the oil company is gone the plant will be removed.

26. Robert Cole asked how much money Applicant anticipates earning from the project over the 30-year period. Stocker Resources noted that when faced with 83% increases in electric costs it elected to produce its own power by teaming up with La Jolla Energy, which has the required equipment. Applicant stated it anticipates earnings sufficient to pay back its \$53 million dollar capital investment. Pursuant to its confidentiality agreements with the Department of Water Resources Applicant declined to identify the price it will obtain for electricity generated by the project.

27. Julie Masters, staff attorney of the Natural Resources Defense Council, urged that the project not be approved. She stated that the project does not qualify as a peaker plant, and therefore should be in the four-month process with full CEQA review.

Ms. Masters noted that the Baldwin Hills area, which has little per capita parkland, is the wrong place to site a power plant. Ms. Masters opined that the proposed power plant, which is estimated to annually emit 17 tons of particulate matter and NOX, would be a health threat to users of Kenneth Hahn State Park, particularly children, and the primarily minority local residents.

28. Derrick Davis commented that area residents are also subject to the particulate matter emissions and other pollution from nearby Los Angeles International Airport. He urged that the cumulative environmental impact be considered. He expressed concern that approval of the project could result in construction of even more such power plants on the theory that the site is already blighted by one plant. He also questioned the Applicant's assurances that the proposed plant would be removed once the oil field is depleted.

29. Marta Zargoza commented that the area is the lifeline of the African-American community in Los Angeles, and the plant would be a blight on the area. It would adversely impact older people and children. She questioned whether Applicant's higher-paying jobs would go to residents of the community.

30. Jeffrey Mintz, with the Mayor's Community Advisory Council, grew up in the Baldwin Hills area. He stated his concern regarding pollution of water and air, and destruction to the habitat of area animal species. Mr. Mintz also noted that the congestion to area streets would be worsened during construction. He expressed concern regarding siting a plant in the area of the park, and damage to the environment.

31. Thomas Brown, representing the Village Green Homeowners Association, stated that his neighborhood is located one-half mile from the project and enjoys the wildlife, views and other aspects of the park. He opined that 20 to 30 years down the road Applicant may leave the site in a contaminated condition and the state might not be able to force the Applicant to clean it up.

32. Schuyler Jackson, a resident of the View Park area, stated that Applicant is motivated strictly by profit, and questioned Applicant's claim that the plant would be dismantled when oil field production ceases. He noted that when the oil is almost depleted continuation of the power plant could be allowed by eking out the remaining oil operating one rig at low productivity. Mr. Jackson noted that in three or five years the

electrical crisis will be over, but prices will not go down. He questioned approving the project as a short-term fix that will result in long-term liabilities.

Mr. Jackson commented about the state subsidies of Applicant, and the cost savings it will realize from avoiding the usual application and environmental review process. He stated the project is being railroaded through and will not benefit the local residents. Senator Murray noted that the State Department of Water Resources would purchase most of the power coming out of the project, so taxpayer money will in effect pay for the plant.

33. Ta-Lecia Arbor, who has lived in the area since 1964, stated that as a child she had to go to Inglewood to visit a park because her neighborhood lacked park and recreational facilities. She stated her opposition to placement of project immediately adjacent to Kenneth Hahn State Park.

34. Calvin Hall, President of the Baldwin Hills-Village Gardens Homeowners Association, commented that the Staff Assessment must take into account the prevailing winds and the downdraft on La Cienega and La Brea which will move pollution into residential neighborhoods no matter how high the stacks are. He noted that at present pollution and odors from the sewer treatment plant are spread by the prevailing winds to Duquesne Street and to the east. Mr. Hall expressed concern that existing odor problems will be compounded by pollution from the proposed power plant. He also noted that smoke from summer fires is moved down the sides of the hills by the same wind patterns. Mr. Hall urged that the Staff Assessment carefully address the wind issues because an environmental impact report will not be required by the 21-day process.

35. Maryann Greene is President of the Blair Hills Homeowners Association, which represents the area just north of the project stacks. Ms. Greene acknowledged the energy crisis, and supports the development of generators but not next to the only large park area in the district. The project is the only power plant proposed for a park area. Ms. Greene commented that urban parks are as important as power, particularly in an area so deficient in recreational resources. She opined that the money spent for the additional acreage would be down the drain if the use of the park requires being next to a power plant. Ms. Greene also noted the area of the project has localized earthquake fault lines and problems of geological instability, which led to rejection of a proposed

development in recent years. She urged that an environmental impact report be required for the project.

36. Rich Waters asked about the Inglewood fault, and M. Roseman asked about the Baldwin Hills earthquake fault. Applicant responded that it aware of the faults, and seismic stability was one of the considerations in selecting the site which was approved by Commission staff. Staff stated that geologic hazards would be addressed in the Staff Assessment.

37. Brenda Stephenson and Erma Nunoz, of the Pointa Alta-Mantoba Homeowners Association, live on the hill just above the proposed site. They commented that the community presently enjoys clean air and the animals and birds native to the park. The proposed plant would endanger the health of children and local residents who have respiratory problems, and sacrifice their way of life.

Ms. Nunoz questioned why only 21 days was devoted to examining a project which would impact the community for 30 or more years. She opined that the bus tour of the area was deceptive because it showed only the blighted oil fields and not the communities and beautiful neighborhoods just around the corners. She asked why a power plant should be placed right in the heart of a park and residential neighborhood, and noted that power plants are placed where people of color live.

38. Milton Bassett, Baldwin Hills Homeowners Association, stated that his group represents 1,000 homes that would be affected by the project. Mr. Bassett commented that gas-powered plants could be located anywhere, and the project could easily be placed anywhere on the gas line. It need not be located in the proposed site, which would have an adverse impact on Kenneth Hahn State Park.

39. Jonathan Tennell commented that the application should not be on the 21-day track because it has environmental impacts, and its exhaust will go into a lake used for fishing. He urged that the project be switched to the four-month process and an environmental review be required because the plant is only 200 yards away from a park. He also noted Applicant's proposed reinjection of 340 gallons of water per minute into the ground will also have a significant impact on the environment.

Mr. Tennell stated that the zoning of the County Open Space Plan does not permit the proposed project, and that information was verified by the County Regional Planning Department. Staff noted that the only requirement for the 21-day process is a simple-cycle project that could be on-line by September 30, 2001. Commissioner Pernell stated that if a County Plan amendment is required the project would not meet the 21-day process.

40. Rhonda Johnson stated her concern that any power plant be sited in the community. She commented that property values would be adversely affected by the placement of a power plant in the area.

41. Joseph Gardener, President of the Baldwin Hills Homeowners Association, asked when the final Commission decision will be made, and how comments at the informational hearing would be communicated to the other Commissioners. Sarah Waters, Rick Rogers, and others asked who makes the final decision and how the application would be processed.

At both public hearings, Commissioner Pernell explained that the five-member Commission would make the final decision after consideration of the Staff Assessment and the public comments made at the hearings.

42. Deebea Hargis commented on the number of neighbors who appeared to express their objections to the proposed power plant. She referenced the efforts of all the people who have worked so hard on the Baldwin Hills Park Project, and her concerns about the adverse impact of a power plant on property values.

43. Yuki Kidokoro of Communities for a Better Environment, a statewide environmental justice organization, stated her organization's concerns about the health affects of the project on the local communities of color. She noted that the project may emit ammonia in addition to particulate matter and nitrous oxide, and that ammonia can harm the population's respiratory systems and eyes. Ms. Kidokoro urged consideration of conservation and alternative energy sources including solar power.

44. Sheila Smith questioned using the September 30 deadline to permit any kind of power plant, especially the proposed project that will greatly harm the planned park area. Ms. Smith commented that at present students at Baldwin Hills Elementary School have to go inside when the sewer plant stench is at its greatest, and that sewer

plant was allowed by an inadequate approval process. She opined that a 21-day review is not enough to adequately consider the issues of a power plant next to a state park.

45. Heidi Creve, Fox Hills Homeowners Association, noted her organization's strong opposition to siting a project amid a planned park area. She urged that the Applicant and the Commission explore other possible locations for the peaker plant.

46. Patricia Penney, a real estate broker, commented on the adverse affect a power plant would have on the property values of the neighborhood. She asked if the project studied effects on property values. The Applicant responded that property values were not a factor in its consideration of sites.

47. A representative of a labor union, who did not provide his name on the record, spoke in favor of building the project. He stated that the need for electricity requires more projects than are currently planned.

48. Charles Caballero, a member of the Ladera Civic Association and the Ladera Senior Center, has worked for the past two years with the Baldwin Hills Expansion Advisory Committee. He commented that the proposed power plant would be in close proximity to the planned community and senior centers, as well as the existing State Park. He urged that the Commission consider another site.

49. Richard Barnes represented his block club, and noted his agreement with the comments of those opposed to the project. He opined that 21-day permit process is an opportunity Applicant has taken to rush the project through. Placement of a gas-powered plant need not be made at the proposed site, but it could be located in an area where it would not have negative impacts.

50. Hillard Storey, a member of the Ladera Civic Association, commented that increasing the production of existing plants could be accomplished more quickly than building a new plant. He opined that some of the supposed power shortage is not real, and expressed concern for residents' health and safe environment.

51. Cheryl Cook described that she is a resident of racially mixed Ladera Heights, a model community. She opined that without the 21-day process allowing the project to be rammed down the throats of the community without sufficient study, Applicant would

never have tried to put in the power plant. She likened the supposed energy shortage to the ostensible oil shortage of 20 years ago, which ceased when prices rose. She commented that efforts to put in a wrought iron fence in her neighborhood took two years, and questioned why only 21 days is required to put in a power plant. Ms. Cook also noted that the proposal would never fly if the project were planned for a wealthy white area.

52. Ruth Sarnoff, a prior resident of Culver City and current resident of Santa Monica, commented that the Commission should recognize the wisdom of the community organizations who attended the informational hearing. She stated that power plants are being proposed in communities of color, and the whole question of environmental racism must be addressed.

Public Comment at the June 18, 2001, Hearing

In addition to remarks by Assemblyman Wesson, Senator Murray, Supervisor Burke and School Board President Hudley Hayes, more than 55 people addressed the Committee at the hearing on June 18, 2001. Attorneys representing the United Homeowners Association and the Concerned Citizens of South Central Los Angeles described the community's concern about environmental justice issues and the potential impact of the project on plans to develop Baldwin Hills State Park. Other concerns regarding potential geological hazards and noise were repeatedly identified during the course of the hearing. All of the comments are reported in the transcript, which is posted on the Commission's website and incorporated herein by reference.

FINDINGS AND CONCLUSIONS

Upon consideration of all the information contained in the record of this proceeding, I make the following findings and conclusions:

1. There is an energy supply emergency in California.
2. All reasonable conservation, allocation, and service restriction measures may not alleviate the energy supply emergency.

3. Public Resource Code section 21080(b)(4) exempts emergency projects from the requirements of the California Environmental Quality Act.
4. Executive Order D-28-01 states that “[a]ll proposals processed pursuant to Public Resources Code section 25705 and Executive Order D-26-01 or this order [D-28-01] shall be considered emergency projects under Public Resources Code section 21080(b)(4).”
5. The Application for Certification for the Baldwin Energy Facility No. 1 Project has been processed pursuant to Public Resources Code section 25705 and Executive Orders D-26-01 and D-28-01.
6. Pursuant to the Executive Orders cited above, the Baldwin Energy Facility No. 1 Project must be on line no later than September 30, 2001, in order to help reduce blackouts and other adverse consequences of the energy supply emergency in the state.
7. In order for the Baldwin Energy Facility No. 1 Project to be on line by no later than September 30, 2001, it is necessary to substantially reduce the time available to analyze the project.
8. Energy Commission staff performed a fatal flaw analysis of all technical areas except for air quality.
9. To the greatest extent feasible under the circumstances, the conditions proposed in the Staff Assessment (1) provide for construction and operation that does not threaten the public health and safety, (2) provide for reliable operation, and (3) reduce and eliminate significant adverse environmental impacts.
10. The South Coast Air Quality Management District performed an air quality impacts analysis and determined that a Permit to Construct cannot be issued for Phase I of the project but can be issued for Phase II of the project.
11. The proposed project as configured in Phase II cannot be operational by September 30, 2001.
12. Unless a proposed project can be online by September 30, 2001, it cannot be permitted under the Energy Commission’s emergency siting process.

CONCLUSIONS

Having heard the presentations and reviewed the record in this proceeding, I conclude that (1) Energy Commission staff performed a fatal flaw analysis of every technical area except for air quality and that all topics except for air quality can be fully mitigated, (2) the South Coast Air Quality Management District performed an air quality impacts analysis and determined that a Permit to Construct cannot be issued for Phase I of the project but can be issued for Phase II of the project, and (3) Phase II of the project cannot be operational by September 30, 2001. Since the project cannot be online by September 30, 2001, it cannot be licensed under Public Resources Code section 25705 and the Governor's Executive Orders. Therefore, I recommend that the Energy Commission deny the application for emergency licensing for the Baldwin Energy Facility No. 1.

Dated June 20, 2001, at Sacramento, California.

ROBERT PERNELL, Presiding Commissioner,
Emergency Siting Committee
Baldwin Energy Facility No. 1 Project by La Jolla Energy Development, Inc.